



## **Tree Cutting/Thinning**

**Solicitation # SCC050002-A6**

### **Contact Information**

Agency:	Strategic Contracting Centers	Agency Address:	100 N 15th Avenue Suite 104 Phoenix AZ 85007
Agency Phone:	(602)542-5511	Agency Fax:	(602)542-5508
Procurement Officer:	Barbara Jewett/Strategic Contracting Centers		
PO Phone:	(602)789-3457	PO Fax:	()-

### **Solicitation Information**

Published Date:	8/23/05 4:45:48 PM	Close Date:	8/26/05 3:00:00 PM
Contract Type	Statewide	Solicitation Type	IFB
Conference Location	Multiple Pre-bid conferences will b held		
Conference Date:	5/30/05 10:00:00 AM		

#### **Description**

This document constitutes an Invitation for Bid (IFB), via competitive sealed bids, from all qualified individuals and organizations to perform the Scope of Work set forth herein.

Previously, State agencies such as the Arizona Department of Transportation, Arizona State Lands Department, Arizona Department of Emergency and Military Affairs and the Arizona Game and Fish Department solicited for the services in this solicitation individually by agency. As a result of the Governor's Efficiency Review mandate, the Arizona Game and Fish Department, was assigned contracting for these services for all State agencies and political subsidiaries.

### **Amendment Information**

The county designations and the price increase clause have been added to the Tree thinning price sheet.

Has the Price Sheet Been Changed?	No
Has the Questionnaire Been Changed?	No

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## **Special Instructions**

### **Offshore Performance of Work Prohibited**

Due to security and identity protection concerns, all services under this contract shall be performed within the borders of the United States. All storage and processing of information shall be performed within the borders of the United States. This provision applies to work performed by all subcontractors at all tiers. Offerors shall declare all anticipated offshore services.

### **Proposals: SPIRIT Submission Requirement**

In accordance with the Uniform Instructions 3.1, Forms: No Facsimile, Telegraphic or Electronic Mail Offers; proposals to this solicitation shall be submitted in an acceptable electronic format, as described herein, using the State's online eProcurement application SPIRIT. Submission of offers by means other than the SPIRIT system will not be accepted. Potential offerors with questions in this regard shall contact the State Procurement Office prior to the solicitations due date and time.

### **Value In Procurement**

Through the Governor's Efficiency Review initiative, Enterprise Procurement Services has established the Value in Procurement (VIP) Committee. A major initiative of the VIP Committee is to aggregate specific procurements to increase efficiency and cut costs. The VIP Committee has designated the Arizona Game and Fish Department as a Strategic Contracting Center for Tree Cutting/Thinning. Any contract resulting from this IFB shall become a statewide contract for use by all State agencies, and optional for cities, counties and school districts and other political subdivisions. State agencies that currently have individual contracts in place will be phased in under this contract when their contracts expire. The current schedule of some of these agencies specific contracts are:

ADOT T04-12-00004 Expires September 14, 2005

ADOT T04-12-B0004 Expires September 10, 2005

ADOT T04-12-C0004 Expires September 10, 2005

AGFD GF5024 Expires October 1, 2005

AGFD GF3030 Expires April 13, 2006

DEMA 04-0428-EV Expires June 1, 2006

ADOA 6-107 Expires December 31, 2005

ADOA 5-095-001 Expires October 1, 2005

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### **Special Terms and Conditions**

#### **ALTERNATE BID**

If the bidder submits an alternate bid, each alternate will be submitted as a completely separate bid package including all documents, signatures, and requirements of the Invitation for Bid. An alternate will not be included in the primary bid envelope. Each alternate bid will be submitted separately in a sealed envelope with the Invitation for Bid number, the bidder's name and address, and the words 'Alternate Bid' clearly indicated on the envelope.

#### **BID EVALUATION**

In accordance with the Arizona Procurement Code 41-2533, Competitive Sealed Bidding, awards will be made to the lowest responsible and responsive bidder whose bid conforms in all material respects to the requirements and criteria set forth in the Invitation For Bid.

#### **Cancellation**

The State reserves the right to cancel the whole or any part of the contract due to failure of the Contractor to carry out any term, promise, or condition of the contract. The State will issue a written ten (10) day notice of default to the Contractor for acting or failing to act as in any of the following:

The Contractor provides personnel that do not meet the requirements of the contract.

The Contractor fails to perform adequately the services required on the contract.

The Contractor attempts to impose on the State, personnel which are of an unacceptable quality.

The Contractor fails to furnish the required product within the time stipulated in the contract.

The Contractor fails to make progress in the performance of the requirements of the contract and/or gives the State a positive indication that the Contractor will not or cannot perform to the requirements of the contract.

The Contractor fails to provide materials, supplies, or performance in accordance with specifications.

The Contractor fails to maintain all applicable federal, State and local licenses, permits and certificates in current, approved status.

The Contractor and/or Contractor's crew is and/or other individuals are found to be in possession of firearms or weapons while on duty or performing the contracted services as stated herein.

#### **CIVIL RIGHTS ASSURANCE STATEMENT**

The Contractor and Subcontractors are subject to Title VI of the Civil Rights Act of 1964, Section 504 of Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Title IX of the Education Amendment of 1972, and offers all persons the opportunity to participate in programs or activities regardless of race, color, national origin, age, sex, or disability. Further, it is agreed that no individual will be turned away from or otherwise denied access to or benefit from any program or activity that is directly associated with a program of the RECIPIENT on the basis of race, color, national origin, age, sex (in educational activities) or disability.

#### **CIVIL RIGHTS NOTIFICATION**

The State prohibits discrimination on the basis of race, color, sex, national origin, age, disability in its programs and activities. If anyone believes they have been discriminated against in any of the State programs or activities, including its employment practices, the individual may file a complaint alleging discrimination directly with the AGFD Deputy Director, 2221 W. Greenway Rd., Phx., AZ 85023, (602) 789-3290, or the U.S. Fish and Wildlife Service, 4040 N. Fairfax Dr., Suite 130, Arlington, VA 22203. If you require this document in an alternative format, please contact the Contract Officer or call TTY at 1-800 367-8939.

#### **Contract Administration**

Following award, the Contractor shall contact the Arizona Department of Game and Fish (AGFD), Procurement Group for guidance or direction in matters of contract interpretation or problems regarding the terms, conditions or scope of the contract. Only the Contract Officer or his/her authorized designee is authorized to change or amend the specific terms, conditions or provisions of the agreement. All changes will be made in writing.

#### **Contract Extension**

The contract term is for a one (1) year period subject to additional successive periods of a maximum twelve months per extension with a maximum aggregate including all extensions not to exceed five (5) years

#### **CONTRACT MODIFICATIONS**

The State will reserve the right to modify this contract as circumstances may require without penalty to fulfill the needs of the State. The Contractor (s) will be notified prior to any changes in the contract. All contract modifications must be in writing.

#### **CONTRACT TERM**

The term of any resultant contract will commence on the date of award and will continue for one year unless canceled, terminated or extended as otherwise provided herein.

#### **CONTRACTOR'S OTHER CONTRACT RESPONSIBILITIES**

Furnish all necessary labor, tools, equipment, vehicles, supplies, and traffic control services and devices as needed to effectively perform the services as specified in this contract.

Attend Required Meetings: The Project Manager will schedule meetings that will be held at the contracting agency's headquarters office in Phoenix unless otherwise indicated by the contracting agency.

- Post-award planning meeting before the start of any work on this contract.

- Pre-commencement meetings scheduled by the State before the beginning of any work on individual project sites.

#### **Eligible Agencies (Statewide)**

This contract shall be for the use of all State of Arizona departments, agencies, commissions and boards. In addition, eligible universities, political subdivisions and nonprofit educational or public health institutions may participate at their discretion. In order to participate in this contract, a university, political subdivision, or nonprofit educational or public health institution shall have entered into a Cooperative Purchasing Agreement with the Department of Administration, Enterprise Procurement Services as required by Arizona Revised Statutes 41-2632.

#### **EMPLOYEES**

The Contractor shall provide mentally alert, physically fit, adequately trained, experienced, responsible, and qualified adult personnel to perform the required contracted services in a safe, orderly, and timely manner. The State may require that the Contractor remove from the job any employees who endanger persons or property or whose continued employment under this contract is inconsistent with the interest of the State.

Employees, while on duty, shall be appropriately dressed in clothing/uniform and may be required to wear an identification-patch.

Only employees of the Contractor designated with an identification patch/uniform will be allowed in the work locations during working hours. Visitors, wives, husbands, or children of the Contractor or Contractor's employees will not be allowed in the work location.

The Contractor is required to remove any litter associated with Contractor or Contractor's crew, (i.e. trash produced by employees on their break times).

Under no circumstances will any person at or under 18 years of age be allowed on any project premises.

Employees shall be required to comply with Arizona Revised Statute 28-731, which prohibits driving over, across, or within a highway median. Parking of employee vehicles within the right-of-way thirty (30) feet from the pavement edge shall NOT be permitted.

Employees and other individuals are prohibited from having firearms or weapons in their possession while on duty or performing the contracted services as stated herein.

Should more restrictive rules/laws be in place for the work area, they will supersede those of this contract (i.e. US Forest Service, municipalities, etc.).

#### **EQUIPMENT**

The Contractor shall be fully aware that work must be started and completed as specified in this contract. It is the responsibility of the Contractor to determine which equipment and methods to use to perform the services required by this contract, unless the State instructs otherwise in writing.

The project sites may require, but are not limited to, the following equipment: chainsaws, trucks and trailers for hauling vegetation, dump trucks, a self-feeding chipper with a spark arrestor, loaders, pick-up trucks, delimbers, log loaders, mechanized feller bunchers, skidders, and dozers. Right of Way projects may require the use of traffic control vehicles and devices.

All Bidders shall submit with the bid a list of equipment to be used on this contract (See Attachment III, Equipment List).

To ensure safety and completion of the project the Contractor shall provide and maintain during the entire period of this contract, vehicles and equipment appropriate to working conditions, sufficient in number, operational condition and capacity to efficiently and safely perform the work and render the services required by Work Order by the delivery date. This includes sufficient reserve equipment to provide uninterrupted service if equipment breakdown occurs. Reserve equipment may be rented or sub-contracted if the Contractor asks for and receives approval from the State Project Manager in writing.

Spill Prevention and Response: To prevent and reduce the impact of fuel, lubricant, and other regulated material releases to the environment, the Contractor shall comply with the requirements outlined below:

-Spill Reporting: In the event of a fuel or other regulated material release to the environment, the contractor shall immediately report a release or spill to the area's Fire Department.

-Spill Prevention: To minimize environmental contamination during a project, the contractor shall provide secondary containment for stationary fuel containers and fuel transfer points. Appropriate spill response equipment shall be available on site, and ongoing preventive maintenance of vehicles and material storage facilities shall be instituted to prevent releases.

-Spill Cleanup: The contractor shall be responsible for the cleanup, restoration, and disposal of all wastes resulting from contractor generated spillage, refueling, and leakage. If the contractor is unable or unwilling to affect such cleanup, restoration and disposal, the State shall take appropriate actions and bill the contractor for such effort.

-Waste Disposal: All spill residue, contaminated oil, unused product, and empty containers generated by the contractor shall be disposed of by the contractor in accordance with applicable local, state, and federal regulations and directives.

All vehicles and equipment utilized in the execution of this contract shall:

-Comply with ALL applicable federal, State, tribal, and local laws, statutes, ordinances, rules, and regulations, and the acts, codes, orders, and decrees of any administrative bodies, councils, or tribunals.

-Be clearly marked with company name and logo.

-Be inspected daily by the Contractor to ensure that it is operable and meet the requirements of the specifications. The State reserves the right to inspect equipment at any time and require the replacement of any that does not meet minimum serviceability standards, safety standards, or appropriate intended use.

-Meet axle load limits.

-Be free from leaks. Leaking of fluids from vehicles and equipment is a safety concern and will not be acceptable. Work operations with faulty or leaky equipment will be halted until the vehicles are properly repaired. The State reserves the right to inspect equipment at any time and require the replacement of any that does not meet minimum serviceability standards.

-Be cleaned. To prevent the spread of noxious weeds, the Contractor is required, at the start of each project, to wash all equipment to be utilized at the project prior to arriving on the site. The State reserves the right to inspect all equipment and vehicles for mud and weeds, and has the right to reject any equipment and/or vehicle until it has been washed.

-Be equipped with two-way communication device: cellular telephone or mobile radio. Communication devices shall be fully operational and available for immediate use during all work operations.

-Each truck shall be equipped with a round-pointed shovel, fire extinguisher, appropriate personal protective equipment (PPE), and first aid kit. These shall be furnished and maintained at the Contractor's expense.

#### RIGHT OF WAY STIPULATIONS:

In addition to the stipulations above, the following shall apply to Right of Way projects:

-Be equipped with a minimum of one (1) amber rotating beacon or strobe light. Rotating amber lights shall be equal to code three 6105 rectangular and/or 550 round for uniformity. The amber rotating beacons or strobe lights shall meet or exceed the standards set forth in ADOT, Traffic Control Manual For Highway Construction and Maintenance, Section 4.5, Lighting Devices, 4.5.1, Flashing Vehicle Lights.

For safety consideration, the motoring public must be able to see the warning rotating beacon or strobe light, therefore any towed equipment or vehicles (chippers, and any other large piece of equipment) which may block the view of the towing vehicle's beacon must be equipped with its own amber rotating beacon or strobe light.

-In addition, each truck shall be equipped with brooms (standard and push) and plastic recovery bags, These shall be furnished and maintained at the Contractor's expense.

-All gasoline and diesel equipment (except turbocharged) used on the project shall be equipped with spark arresters approved in the Spark Arrester Guide, USDA Forest Service, June 1983, and all revisions. All internal combustion engines must be inspected before use in the job and periodically. Equipment not passing inspection cannot be used until repairs are made. Serviceable baffled mufflers with standard exhaust tailpipes are considered adequate on trucks, pickups, and sedans. Equipment service areas and gas and oil storage areas shall be cleared of brush, litter, debris, and grass. Each piece of motorized equipment shall be equipped with a round-pointed shovel and fire extinguisher as a minimum. These shall be

furnished and maintained at the Contractor's expense.

Each power saw shall be kept in a safe, serviceable condition at all times. Each power saw shall be equipped with an approved spark arrester/muffler system. The refueling of power saws shall be done on a non-combustible, non-degradable surface, as approved by the Project Manager. Power saws with warm or hot spark arresters/mufflers (running or not) shall not be placed on sawdust piles, litter, duff, stumps, dry grass, or spots that are easily ignited.

**Estimated Quantities (General)**

This solicitation references quantities as a general indication of the needs of the state. The state anticipates considerable activity resulting from contracts that will be awarded as a result of this solicitation; however, the quantities shown are estimates only and the state reserves the right to increase or decrease any quantities actually acquired without penalty. No commitment of any kind is made concerning quantities and that fact should be taken into consideration by each potential contractor.

**FIRE SUPPRESSION AND FIRE PRECAUTION REQUIREMENTS**

The following fire suppression and fire precaution requirements are a part of this solicitation and any resultant contract.

Fire Suppression: All fires shall be reported to local officials as soon as possible. Even though the Contractor's crew may have suppressed the fire, this report is required. The Contractor shall indicate all fire suppression activity on the Daily Work Report (See Attachment V, Daily Work Report From Contractor).

At the request of the contracting agency, the Contractor may be responsible for providing a fire suppression crew at the project work site(s). This requirement will be specified on the Work Order.

Fire Precaution: See Special Terms and Conditions, Equipment.

**INCLUSIVE OFFEROR**

Offeror(s) are encouraged to make every effort to utilize subcontractors that are small, women-owned and/or minority owned business enterprises. This could include subcontracts for a percentage of Administrative or Billing needs. Offerors who are committing a portion of their work to such subcontractors shall do so by identifying the type of service and work to be performed by providing detail concerning your organization's utilization of small, women-owned and/or minority business enterprises. Emphasis should be placed on specific areas that are subcontracted and percentage of contract utilization and how this effort will be administered and managed, including reporting requirements.

**INDEMNITY**

The parties to this contract agree that the State of Arizona, its departments, agencies, boards and commissions shall be indemnified and held harmless by the Contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its departments, agencies, boards and commissions shall be responsible for its own negligence. Each party to this contract is responsible for its own negligence.

If the Contractor is the State of Arizona, its departments, agencies, boards and commissions, then the above shall not apply.

**INSPECTION, ACCEPTANCE AND REWORK**

The State Project Manager will conduct the following inspections:

Compliance Inspections: While work is being performed, the State shall perform periodic inspections of the project work sites, without prior notice to the Contractor, and conduct on-site meetings with the Contractor to ascertain the Contractor's compliance with contract requirements and determine if corrective rework is required.

Partial Inspections: If the project is designated on the Work Order to be invoiced using the Partial Completion method, the State Project Manager will contact the Contractor within ten (10) days of receiving the partial invoice, to schedule a mutually acceptable date and time to conduct an on-site meeting with the Contractor, perform the inspection, and make a determination if corrective rework is required. The Contractor must request the partial inspection at the time the invoice is sent. The Contractor will not be paid until the work invoiced has been inspected and approved.

Final Inspections: Final inspections for payment will be made on completed units. The Contractor shall fax their final report to the State at least forty-eight (48) hours in advance of the date the Contractor would like the State to perform an initial inspection of completed services at a work site. The State Project Manager will contact the Contractor within ten (10) days to schedule a mutually acceptable date and time to conduct an on-site meeting with the Contractor, perform the inspection, and make a determination if corrective rework is required.

The State will schedule a mutually acceptable date and time to conduct an on-site meeting with the Contractor, perform the inspection, and make a determination if corrective rework is required. The State will deliver or fax the written inspection report to the Contractor for invoicing or rework activities (See Attachment VI, Contract Inspection Review Sheet).

The Contractor will send a facsimile acknowledging, by signature and date, receipt of the State's inspection report and deadlines.

Inspection—Sampling: The sampling method will be at the State Project Manager's discretion; the Project Manager is

required to inform the Contractor of the method at the Pre-Commencement meeting (See Attachment VI, Contract Inspection Review Sheet).

Projects may be examined based on but not limited to:

Number of leave trees that should have been left.  
Number of trees that were left.  
Number of missing leave trees.  
Number of satisfactory trees.  
Number of excess trees.  
Size and configuration of slash piles.  
Slash disposal.  
Stump height.  
Number of damaged leave trees.  
Landing rehabilitation.  
Chip distribution.  
Chip height.

**Rework and Reinspection After Rework:** The Contractor shall return, at no extra cost to the State, to correct any deficiencies listed on the State inspection form, and schedule a final acceptance inspection of the work site. The Contractor shall contact the State at least forty-eight (48) hours in advance of the date the Contractor would like the inspection to take place.

The Project Manager will indicate on the Work Order the level of adequacy required for partial and/or full payment. Inspections after rework will be made in the same manner as the first inspection. The Contractor shall pay for inspections necessitated by the rework.

**Reinspection of Thinning Upon Contractor Request:** If the original inspection results are unacceptable to the Contractor and a second inspection is requested without rework, the same inspection procedure will be used. However, the inspection pattern will be shifted. If the second inspection shows less than 5% variance from the first inspection, the Contractor shall pay the cost of the second inspection. If deficiencies are not corrected then payment will be reduced to cover completion of the contract to the desired standards. Requests for reinspection must be made in writing.

The State will authorize payment for service performed at the project site upon satisfactory inspection and acceptance by the State.

#### **Insurance**

A. Without limiting any liabilities or any other obligation of the Contractor, the Contractor shall purchase and maintain, in a company or companies lawfully authorized to do business in the State of Arizona, and rated at least A VII in the current A.M. Best's, the minimum insurance coverage below.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Vendor from liabilities that might arise out of the purchase and use of the commodities sold under this Contract by the Vendor, his agents, representatives, employees or subcontractors and Vendor is free to purchase such additional insurance as may be determined necessary.

1. Commercial General Liability, with minimum limits of \$1,000,000 per occurrence, and an unimpaired products and completed operations aggregate limit and general aggregate minimum limit of \$2,000,000. Coverage shall be at least as broad as the Insurance Service Office, Inc. Form CG00010196, issued on an Occurrence basis, and endorsed to add the State of Arizona as an Additional Insured with reference to this contract. The policy shall include coverage for:

Bodily Injury;  
Broad Form Property Damage (including completed operations);  
Personal Injury;  
Blanket Contractual Liability;  
Products and Completed Operations, and this coverage shall extend for one year past acceptance, cancellation or termination of the services or work defined in this contract;  
Fire Legal Liability.

2. Business Automobile Liability, with minimum limits of \$1,000,000 per occurrence combined single limit, with Insurance Service Office, Inc. Declarations to include Symbol One (Any Auto) applicable to claims arising from bodily injury, death or property damage arising out of the ownership, maintenance or use of any auto. The policy shall be endorsed to add the State of Arizona as an Additional Insured with reference to this contract.

3. Worker's Compensation (Coverage A): Statutory Arizona benefits;

Employer's Liability (Coverage B): \$500,000 each accident \$500,000 each employee and \$1,000,000 policy limit/disease.

Policy shall include endorsement for All State coverage for state of hire.

A. The State of Arizona shall be named as an Additional Insured as its interests may appear.

B. The policy shall contain an Extended Claim Reporting Provision of not less than one year following termination of the policy.

C. The State of Arizona reserves the right to request and receive certified copies of all policies and endorsements within ten calendar days of contract signature.

D. Certificates of Insurance acceptable to the State of Arizona shall be issued and delivered prior to the commencement of the work defined in this contract, and shall identify this contract and include certified copies of endorsements naming the State of Arizona as Additional Insured for liability coverages. The certificates, insurance policies and endorsements required by this paragraph shall contain a provision that coverages afforded will not be cancelled until at least 60 days prior written notice has been given to the State of Arizona. Such notice shall be sent directly to (State of Arizona Game and Fish Department, Attn: Contract Administrator, 2221 W. Greenway Road, Phoenix, AZ 85023) and shall be sent by certified mail, return receipt requested. All coverages, conditions, limits and endorsements shall remain in full force and effect as required in this contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

E. Failure on the part of the Contractor to meet these requirements shall constitute a material breach of contract, upon which the State of Arizona may immediately terminate this agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, and all monies so paid by the State of Arizona shall be repaid by the Contractor upon demand, or the State of Arizona may offset the cost of the premiums against any monies due to the contractor. Costs for coverages broader than those required or for limits in excess of those required shall not be charged to the State of Arizona. Contractor and its insurer(s) providing the required coverages shall waive their rights of recovery against the State of Arizona, its Departments, Employees and Officers, Agencies, Boards and Commissions. The State of Arizona reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. DO NOT SEND CERTIFICATES OF INSURANCE TO THE STATE OF ARIZONA'S RISK MANAGEMENT SECTION.

F. The policies required by the Commercial General and Business Automobile Liability Sections shall be endorsed to include the State of Arizona as additional insured and shall require that the insurance provided by the contractor shall be primary insurance and that any insurance carried by the State of Arizona shall be excess and not contributory insurance provided by the contractor.

G. In the case any work is subcontracted, the contractor will require all subcontractors to provide comparable insurance.

H. If the contractor is the State of Arizona, its departments, agencies, boards, and commissions, then the above shall not apply.

#### **INVOICING**

The Contractor will invoice the State for all projects according to the manner assigned for the type of project in this solicitation (See Price Sheet). All invoices will contain the contract number, contract name, project number, purchase order number, equipment utilized, labor hours, labor rate, materials supplied, Contractor's name and address, a copy of Work Order authorizing work and the name of the Contractor's representative to contact concerning billing questions.

Should the trees to be cut constitute merchantable timber, the Contractor shall reduce the amount due from the State by the market value of the trees cut.

If the project is invoiced once for the total amount of the project, the Contractor will be paid in arrears generally within 30 days of receipt of the invoice. Should the invoice be for partial payment, the invoice must specify what the Contractor is being paid for according to the invoice method specified by the Work Order (i.e. Percentage Completion, Task Specific, 100% Completion, Unit Completion, etc.):

Percentage Completion: Contractors may invoice when the percentages completion required on the Work Order have been mutually agreed upon in writing by the Contractor and the Project Manager as in fact having been completed.

Task Specific: Contractors may invoice when tasks specified on the Work Order as a requirement for payment have been mutually agreed upon in writing by the Contractor and the Project Manager as in fact having been completed.

100% Completion: Contractors may invoice when the entire project indicated on the Work Order has been mutually agreed upon in writing by the Contractor and the Project Manager as in fact having been completed.



Unit Specific: Contractors may invoice when units of area specified on the Work Order as a requirement for payment have been mutually agreed upon in writing by the Contractor and the Project Manager as in fact having been completed.

Thirty percent of the total payment shall be held until the end of the project and will not be paid until the State Project Manager validates that the project is complete and all deliverables have been received and meet the project requirements and specifications (See Special Terms and Conditions, Payment Method), unless otherwise mutually agreed upon by the Project Manager and Contractor.

**Licenses**

Contractor will maintain in current status all federal, State and local licenses and permits required for the operation of the business conducted by the Contractor. The Contractor will be responsible for ensuring the current license and permit status of subcontractors, if any.

Failure of the Contractor to obtain or maintain approved federal, State and local licenses and permits required for the operation of the business and performance of this IFB may be considered a failure to perform to expectations.

**Liquidated Damages (as Stated)**

If the Contractor fails to deliver the supplies or perform the service within the time specified in this contract, or any extension thereof, the actual damages to the State for the delay will be difficult or impossible to determine. Therefore, in lieu of actual damages, the Contractor will pay to the State as fixed, agreed and liquidated damages for each calendar day of delay, the amount of \$250.00. The State may terminate this contract in whole or part as provided in the 'Default' provision. In that event, the Contractor will be liable for such liquidated damages accruing until such time as the State may reasonably obtain the delivery or performance of similar supplies or services, respectively. The State's right to liquidated damages for delay will be in addition to any other remedies available to the State arising from Contractor's breach (i.e. retention fees). The State will have the right to offset any amounts owed to the Contractor by the liquidated damage amount.

**Multiple Award**

The state has a large number and variety of potential using agencies at locations throughout Arizona. In order to assure that any ensuing contracts will allow the state to fulfill current and further requirements, the state reserves the right to award contracts to multiple companies. The actual utilization of any contract will be at the sole discretion of the state. The fact that the state may make multiple awards should be taken into consideration by each potential contractor.

**Non-Exclusive Contract**

This contract has been awarded with the understanding and agreement that it is for the sole convenience of the State of Arizona. The State reserves the right to obtain like goods or services from another source when necessary. Off-contract purchase authorization(s) may be approved by either the agency (within an agencies delegated authority) or by the State Procurement Office. Approvals shall be at the exclusive discretion of the State and shall be final. Off-contract procurement shall be consistent with the Arizona Procurement Code.

**NOTICES**

All notices, requests, demands, consents, approvals, and other communications which may or are required to be served or given hereunder (for the purposes of this provisions collectively called Notices), shall be in writing and shall be sent by registered or certified United States mail, return receipt requested, postage prepaid, addressed to the party or parties to receive such notice as follows:

If intended for the State, to:

Arizona Game and Fish Department  
Attention: Contracting Officer  
2221 West Greenway Road  
Phoenix, Arizona 85023

And: Contracting State Agency

b. If intended for the Contractor, to:

The Contractor Company Name  
Attention: Contractor Contact  
Address  
City, State, Zip

Or to such other address as either party may from time to time furnish in writing to the other by notice hereunder. Any notice so mailed shall be deemed to have been given as of the date such notice is received as shown on the return receipt. Furthermore, such notice may be given by delivering personally such notice, if intended for the State, to the Arizona Department of Game and Fish, Chief Procurement Officer and, if intended for the Contractor, to the person named on the Offer & Contract Award of this contract, or to such other person as either party may from time to time furnish in writing to the other by notice hereunder. Any notice so delivered shall be deemed to have been given as of the date such notice is personally delivered to the other party.

**Offshore Performance of Work Prohibited**

Due to security and identity protection concerns, all services under this contract shall be performed within the borders of the United States. All storage and processing of information shall be performed within the borders of the United States. This provision applies to work performed by subcontractors at all tiers.

#### **ON-SITE SUPERVISION**

The Contractor shall have supervisory personnel present during work operations for the purpose of observing work progress, inspection of completed work, meeting with State personnel to perform random work site inspections and coordinate operational requirements. The supervisor shall also possess a copy of this contract, any amendments thereto and accepted traffic control plans when performing work under any resultant contract.

The supervisory personnel shall possess a means of communications with the State in advance of and while performing any work under this contract. This form of communication may be cellular telephone or mobile radio. The Contractor shall provide the State with the names and telephone numbers of all on-site supervisory personnel.

The Contractor's on-site supervisor and additional personnel, as deemed necessary by the State, must be literate and fluent in the English language. This is not meant to require that all Contractor personnel speak, read and write English. Some tasks may require only the on-site supervisor, crew leader or a crewmember to speak, read and write English. Other activities that involve contact and interaction with the public will require that more workers speak English, for example flaggers, etc. This requirement is necessary due to the following reasons, which include but are not limited to:

- Warnings of emergencies and hazards.
- Preparation of reports.
- Communication with State personnel.
- Response to travelers' inquiries.
- Response to law enforcement authorities, ambulance, etc.

Due to the significance of the above listed reasons, the English requirement is being made with the intent that communications between the Contractor's employees, State personnel and the public will be understood.

If for any reason the Contractor changes any of the personnel described in the proposal, the Contractor shall notify the Agency Project Manager in writing of the proposed or actual substitution as soon as possible, and present the qualifications of the replacement personnel. Any replacement personnel must be acceptable to the Agency Project Manager, and shall possess at least the same level of qualifications as the personnel being replaced.

#### **Ordering Process**

Upon award of a contract, any State agency or political subsidiary may procure the specific material and/or service awarded by the issuance of a contract purchase order to the appropriate Contractor. Each contract purchase order must cite the correct contract number. The award of a contract shall be in accordance with the Arizona Procurement Code and all transactions and procedures required by the Code for public bidding shall be complied with. A contract purchase order for the awarded material and/or service that cites the correct contract number is the only document required for the using agency to order and the Contractor to deliver the material and/or service.

Any attempts to represent any material and/or service not specifically awarded as being under contract is a violation of the contract and the Arizona Procurement Code. Any such action is subject to the legal and contractual remedies available to the State inclusive of but not limited to contract cancellation, suspension and/or debarment of the Contractor.

#### **Payment**

All payments shall be made in arrears within thirty (30) days of invoice. A 30% retention fee will be withheld until completion of the project. If the project is to be completed in stages, a 30% retention fee will be held for each stage and will be payable upon the Project Manager's determination of each stage's final acceptance. Retention fees may be used to pay Liquidated Damages (See Special Terms and Conditions, Liquidated Damages).

#### **Post Award Meetings**

Upon award, the Contractor(s) may be required to participate in a post award conference.

#### **PRE-BID CONFERENCE**

A Pre-Bid Conference will be held at the time and place indicated on the cover sheet. Attendance is not required, but highly recommended. The purpose of the conference will be to clarify the contents of the solicitation in order to prevent any misunderstanding of the State of Arizona's position. Any doubt as to the requirements of the solicitation or any apparent omission or discrepancy should be presented to the State at the conference. The State of Arizona will then determine the appropriate action necessary, if any, and issue a written amendment to the solicitation if required. Oral statements or instructions will not constitute an amendment to the solicitation.

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, or this document in an alternative format, by contacting the AGFD Deputy Director, 2221 W. Greenway Rd., Phx., AZ 85023, (602) 789-3290. Requests should be made as early as possible to allow sufficient time to arrange for accommodation.

#### **PRE-COMMENCEMENT MEETINGS**

After a Contractor has accepted a Work Order (see Special Terms and Conditions, Work Order), the State will set a pre-commencement meeting date at least seven (7) calendar days prior to the scheduled date of work commencement. The Contractor should bring an operational plan, proposed work schedule, work plans, and any required traffic control plans to the meeting for discussion with the State Project Manager and State for approval. During this meeting, at a minimum, the following items should be agreed upon:

A. Start and End dates

B. Additional road work packages

C. Any required work not immediately described and priced in this solicitation.

D. What the project entails.

**Price Adjustment**

All prices and percentages in the contract will remain firm for a one (1) year period after award of contract. The State may review a fully documented request for a price or percentage adjustment only after the contract has been in effect for one (1) year. A price or percentage adjustment will only be considered if the adjustment does not exceed the percent maximum increase approved at time of contract award.

Provide the maximum percentages of increase for each of the renewal periods on the price sheet in the spaces provided. The Contractor is cautioned that each percentage will be computed against the ORIGINAL CONTRACT PRICE for every renewable period. If the following blanks are not completed, prices during the renewal periods will be the same as during the original; the Contractor will not be eligible for price increase considerations in future periods. Refer to the Price Increase section of each work category price sheet.

Further, the Contractor is advised that the State of Arizona does not automatically grant any increase at the time of renewing the contract and that if an increase is requested, documentation of need must be provided by the Contractor at the time of renewal. The price or percentage adjustment, if approved, will be effective upon the first day of the month following approval.

Prices on the price sheet are all-inclusive. However, fuel surcharges may be reviewed when requested by the Contractor with sufficient justification and if deemed necessary by the Project Manager. Fuel surcharges will be the difference between price per gallon of gas at date of contract award and price per gallon of gas at the time of request. Fuel surcharges will be granted in writing only.

**Price Reductions**

A price reduction adjustment may be offered at any time during the term of a contract and shall become effective upon notice.

**PRICE SHEETS**

All pricing shall be shown in words and figures on the Price Sheets. In a case of discrepancy the amount in words will govern. In case of error in the extension of prices of the offer the unit price shall govern. No offer shall be altered, amended or withdrawn after the specified offer and due date and time. Contractor shall be paid per project, in accordance with the Price Sheet.

**Pricing**

Pricing for the resultant contract will be determined by the Price Sheet in accordance with the Invitation for Bid and this section.

The total due, or portion thereof, shall be paid for satisfactory services in conformance with contract requirements and may be determined through inspection and acceptance by the State.

**PROMPT PAYMENT DISCOUNT**

Prompt payment discounts of thirty (30) days or more set forth in an Offer shall be deducted from the offer for the purposes of evaluating that price (See Price Sheets).

**References**

The Contractor MUST provide three (3) references for which similar services and materials have been supplied within the past 24 months. The references will include the company name, phone number, and contact person. These references will be checked, so please be sure that all information is current and accurate (See Attachment I, References).

**Required Information**

The following items will be submitted with each bid. Failure to include all of the items may result in a bid being rejected.

A. OFFER AND CONTRACT AWARD

B. APPLICABLE PRICE SHEETS

C. REFERENCES

Complete Attachment I, References.

#### D. LIST OF SUBCONTRACTORS

Complete Attachment II, List of Subcontractors.

#### E. EQUIPMENT LIST

Complete Attachment III, Equipment List.

##### **Safety Standards**

All items supplied under this contract shall comply with the current applicable Occupational Safety and Health Standards of the State of Arizona Industrial Commission, the National Electric Code, and the National Fire Protection Association Standards.

All flaggers, equipment operators, chainsaw operators, and other dismounted personnel working in the right-of-way shall wear approved PPE that may include, but is not limited to: high visibility outer warning garments (HVWG) such as coats, jackets, pants or vests with high visibility, reflectorized material; hard hats; hearing protection (muff type or plugs); eye and face protection (safety glasses, goggles, face shields); foot protection (steel-toe); hand protection (gloves); safety belts, lifelines and lanyards; and chainsaw chaps.

The State may perform periodic inspections of the project work site, and determine if the Contractor is in compliance with the worksite safety requirements of the contract. The State will give the Contractor a written worksite audit and the Contractor shall correct any actions indicated on the form in the time indicated. Failure by the Contractor to correct PPE violations may be considered grounds for termination of the contract. See Worksite Audit, Attachment VII.

##### **START AND COMPLETION DATES**

The State, on an as-required basis, shall establish the dates of services by issuance of a written Work Order (See Attachment IV, Work Order) to the Contractor.

The Contractor shall be available to begin work on a project site within ten (10) calendar days from the Contractor's acceptance date on State's Work Order, unless otherwise mutually agreed in writing by the Project Manager and Contractor.

The Contractor shall complete all work, weather and roadway conditions permitting, within thirty (30) calendar days after start date unless otherwise stipulated in writing by the State. The Contractor may request an extension by submitting a request, accompanied by factual justification, to the State Project Manager. See Special Terms and Conditions, Work Orders.

Dates of service requested by the State may be dependent upon availability of funding, receipt of environmental clearances, fire hazard conditions, weather conditions, and the needs of the State.

##### **STATE RESPONSIBILITIES**

The physical measurement and marking of the areas, distances and calculation of acreage to be cut in each project service location.

Furnish Work Orders in writing to the Contractor prior to commencement of work.

Review and approve Contractor's proposed work schedule.

Suspend operations when work performance is observed in violation of safety rules, regulations or practices.

Inspect work sites periodically to ensure compliance with contractual requirements, determine if corrective rework is required, issue written reports to Contractor, and conduct an on-site meeting with the Contractor.

Inspect equipment periodically and require the replacement of any equipment that does not meet minimum serviceability standards.

##### **Subcontractors**

Contractors may subcontract to third party vendors to meet requirements as set forth in this solicitation. A third party vendor is defined as being completely owned and operated separately from the Contractor. See Special Terms and Conditions, Inclusive Offeror.

As part of the Contractor's bid, all subcontractors will be named on required Attachment II, Subcontractors. All information regarding subcontractor's personnel and inventory will also be stated in the bid. All proposed subcontractors shall be licensed in accordance with the State of Arizona contractor licensing requirements and must meet the licensing requirements if set forth in this solicitation. Any subcontractor the Contractor wishes to use that is not listed on required Attachment II, Subcontractors, must be listed on the Work Order and approved by the Project Manager prior to commencement of work.

Neither this agreement, nor any portion thereof, may be assigned by the Contractor without the written consent of the AGFD first having been obtained. The Subcontract shall incorporate by reference the terms and conditions of

this Contract.

### **SUSPENSION OF WORK**

The State reserves the right to suspend all operations at any time for any reason, including the following:

**Weather:** The Contractor shall suspend operations if weather or road conditions are such that services cannot be carried out in a safe, effective manner or will pose an environmental hazard. If such suspension occurs, the Contractor shall immediately notify the State's Project Manager for the project site.

The State may suspend operations at any time, when in their judgment, present or impending weather conditions are such that operations cannot be carried out in a safe, effective manner.

**Work Operations:** The State shall immediately suspend operations when work performance is observed in violation of safety rules, regulations or practices.

**Other Conditions:** There may be certain times during the year when some small areas in project work sites may be excluded from project requirements because of, but not limited to:

- Sensitive resource areas.
- Weather concerns.
- Fire concerns.
- Time concerns.
- Military constraints.

**Military Operations:** Some project assignments resulting from this contract may be performed on an active military installation. Contractor operations may be temporarily suspended due to security constraints and/or military activities. In such case a change order may be completed at Contractor request and Agency Project Manager agreement, to extend the period of performance.

When possible, the State will provide at least five (5) days advance warning. Even so, the Contractor acknowledges that advance warning is not always possible. If suspension of work is ordered, the State will meet with the Contractor to revise the project completion date.

### **Taxes**

The Contractor shall include all applicable State and local taxes on the price sheet.

### **VENDOR REGISTRATION**

Prior to issuance of a Purchase Order and subsequent payment and/or formal award, the Contractor shall have a completed STATE OF ARIZONA SUBSTITUTE W-9 FORM on file with the State. No payments shall be made until the form is on file. The STATE OF ARIZONA SUBSTITUTE W-9 FORM will be provided to the Contractor at the time of Award and must be completely filled out and returned prior to the start of any project for the State.

### **WORK ORDERS**

The contracting agency will issue a written Work Order (See Attachment IV, Work Order) to the Contractor specifying the measurements and distances of the service location, description of service being ordered, the scope of work specific to the location, purchase order number, type of vegetation removal required, and required delivery date, salvage rights (See Special Instructions, Ownership) and other information pertinent to the project.

The State will indicate on the Work Order (See Attachment IV, Work Order) if vegetation is to be piled, chipped or scattered along the ground (See Special Instructions, Disposal of Vegetation Products).

The Contractor shall be capable of responding to Work Orders for services within ten (10) calendar days of the request.

Contractors are strongly encouraged to visit all proposed service locations and become familiar with the areas designated on Work Orders submitted to them, satisfying themselves as to the labor hours and conditions to be involved in performing the work, prior to acceptance of a Work Order. By signing the Work Order, the Contractor acknowledges that they understand all work requirements, are aware of all conditions that might impact work performance, have examined or will examine and will comply with all existing site conditions for the term of any resultant project. If the Contractor is not agreeable to the classification of the Work Order project and the Contractor makes this request prior to the pre-commencement meeting, the Contractor and State Project Manager may conduct a stand exam at the pre-commencement meeting at which time the State Project Manager may consider changing the classification. Requested changes will not be considered approved until a revised Work Order has been received by the Contractor.

The Contractor shall be capable of beginning work on a project site within ten (10) calendar days from the Contractor's acceptance date on the State's Work Order, weather and conditions permitting, unless otherwise mutually agreed in writing by the Project Manager and Contractor.

The Contractor shall be capable of attending Pre-commencement meetings scheduled by the State to review the written

Work Orders within ten (10) calendar days of the meeting request. The meeting place will be designated on the Work Order.

The Contractor shall begin work on a project when the Contractor has:

1. Attended a Work Order Pre-commencement meeting scheduled by the State.
2. Received a Work Order signed by the State.
3. Inspect the work site with the State.
4. Signed and returned the Work Order to the State, indicating dates of delivery.
5. Received a Purchase Order Number from the State.

The State reserves the right to revise the delivery and schedule and make other changes within the general Scope of Work as may be deemed necessary to best serve the interest of the State. All changes shall be documented by formal amendments to the contract.

Only the Project Manager issuing the initial Work Order may request additional work, or changes at a project site. That agency will issue a revised Work Order authorizing changes. To ensure payment, the Contractor must sign and return the revised Work Order to the contracting agency. If the Contractor performs requested work without authorization from the section initiating the Work Order, the work will be at the Contractor's own expense.

If the Contractor discovers or determines that the scope of the project must be changed due to differing site conditions, or for any other reason not anticipated in the Work Order, which would result in a change in cost, completion time, or that makes significant changes in methodology, the Contractor shall notify the State Project Manager in writing of the exact nature of the change as soon as possible. If the changes result in an increase or decrease in the established firm, fixed prices, such increase or decrease shall be detailed to such an extent as to allow the State Project Manager to evaluate the costs involved. This notification, which shall include revised prices, shall be submitted to the State Project Manager as soon as possible, but not later than five business days from discovery. Requested changes will not be considered approved until a revised Work Order has been received by the Contractor. In the event of a field change authorized by the State Project Manager, the Contractor shall forward all applicable documentation to the State Project Manager within five business days.

The Contractor is advised that only the designated Project Manager, or his designee, may approve changes to the Work Order. Designees shall be indicated in writing. Project Managers may only change Work Orders issued by themselves or someone they are Acting for.

The Contractor shall provide stand-alone facsimile equipment, separate from the main business telephone number, to receive Work Orders and send daily work reports to the contracting agency.

See Special Terms and Conditions, Start and Completion Dates for further information.

# Tree Cutting/Thinning

Solicitation # SCC050002-A6

## Uniform Instructions

### 1 Definition of Terms

As used in these Instructions, the terms listed below are defined as follows:

#### 1.2 Contract

the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement of Scope of Work; the Offer and any Best and Final Offers, and any Solicitation Amendments or Contract Amendments and any terms applied by law.

#### 1.3 Contract Amendment

a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.

#### 1.4 Contractor

any person who has a Contract with the State

#### 1.5 Days

calendar days unless otherwise specified.

#### 1.6 Exhibit

any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation

#### 1.7 Offer

bid, proposal or quotation.

#### 1.8 Offeror

a vendor who responds to a Solicitation.

#### 1.9 Procurement Officer

the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.

#### 1.10 Solicitation

an Invitation for Bids ('IFB'), a Request for Proposals ('RFP'), or a Request for Quotations ('RFQ').

#### 1.11 Solicitation Amendment

a written document that is signed by the Procurement Officer and issued for the purpose of making changes to the Solicitation.

#### 1.12 Subcontract

means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.

#### 1.13 State

the State of Arizona and Department or Agency of the State that executes the Contract.

### 2 Inquiries

Inquiries

#### 2.1 Duty to Examine

It is the responsibility of each Offeror to examine the entire Solicitation, seek clarification in writing (inquiries), and examine its Offer for accuracy before submitting the Offer. Lack of care in preparing an Offer shall not be grounds for modifying or withdrawing the Offer after the Offer due date and time, nor shall it give rise to any Contract claim.

#### 2.2 Solicitation Contact Person

Any inquiry related to a Solicitation, including any requests for or inquiries regarding standards referenced in the Solicitation, shall be directed solely to the Solicitation contact person. The Offeror shall not contact or direct inquiries concerning this Solicitation to any other State employee unless the Solicitation specifically identifies a person other than the Solicitation contact person as a contact.

#### 2.3 Submission of Inquiries

The Procurement Officer or the person identified in the Solicitation as the contact for inquiries may except at the Pre-Offer Conference, require that an inquiry be submitted in writing. Any inquiry related to a Solicitation shall refer to the appropriate Solicitation number, page and paragraph. Do not place the Solicitation number on the outside of the envelope containing that inquiry, since it may then be identified as an Offer and not be opened until after the Offer due date and time. The State shall consider the relevancy of the inquiry but is not required to respond in writing.

#### 2.4 Timeliness

Any inquiry or exception to the solicitation shall be submitted as soon as possible and should be submitted at least seven days before the Offer due date and time for review and determination by the State. Failure to do so may result in the inquiry not being considered for a Solicitation Amendment.

#### 2.5 No Right to Rely on Verbal Responses

An offeror shall not rely on verbal responses to inquiries. A verbal reply to an inquiry does not constitute a modification of the solicitation.

## **2.6 Solicitation Amendments**

The Solicitation shall only be modified by a Solicitation Amendment.

## **2.7 Pre-Offer Conference**

If a pre-Offer conference has been scheduled under this Solicitation, the date, time and location shall appear on the Solicitation cover sheet or elsewhere in the Solicitation. Offerors should raise any questions about the Solicitation or the procurement at that time. An Offeror may not rely on any verbal responses to questions at the conference. Material issues raised at the conference that result in changes to the Solicitation shall be answered solely through a written Solicitation Amendment.

## **2.8 Persons With Disabilities**

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Solicitation contact person. Requests shall be made as early as possible to allow time to arrange the accommodation.

## **3 Offer Preparation**

Offer Preparation

### **3.1 Forms: No Facsimile, Telegraphic or Electronic Mail Offers**

Telegraphic or Electronic Mail Offers. An Offer shall be submitted either on the forms provided in this Solicitation or their substantial equivalent. Any substitute document for the forms provided in this Solicitation must be legible and contain the same information requested on the forms, unless the solicitation indicates otherwise. A facsimile, telegraphic, mailgram or electronic mail Offer shall be rejected if submitted in response to requests for proposals or invitations for bids, unless the solicitation indicates otherwise.

### **3.2 Typed or Ink; Corrections**

The Offer shall be typed or in ink. Erasures, interlineations or other modifications in the Offer shall be initialed in ink by the person signing the Offer. Modifications shall not be permitted after Offers have been opened except as otherwise provided under applicable law.

### **3.3 Evidence of Intent to be Bound**

The Offer and Acceptance form within the Solicitation shall be submitted with the Offer and shall include a signature (or acknowledgement for electronic submissions, when authorized) by a person authorized to sign the Offer. The signature shall signify the Offeror's intent to be bound by the Offer and the terms of the Solicitation and that the information provided is true, accurate and complete. Failure to submit verifiable evidence of an intent to be bound, such as an original signature, shall result in rejection of the Offer.

### **3.4 Exceptions to Terms and Conditions**

All exceptions included with the Offer shall be submitted in a clearly identified separate section of the Offer in which the Offeror clearly identifies the specific paragraphs of the Solicitation where the exceptions occur. Any exceptions not included in such a section shall be without force and effect in any resulting Contract unless such exception is specifically accepted by the Procurement Officer in a written statement. The Offeror's preprinted or standard terms will not be considered by the State as a part of any resulting Contract.

i. Invitation for Bids. An Offer that takes exception to a material requirement of any part of the Solicitation, including terms and conditions, shall be rejected. [ALL]

ii. Request for Proposals. All exceptions that are contained in the Offer may negatively affect the State's proposal evaluation based on the evaluation criteria stated in the Solicitation or result in rejection of the Offer. An offer that takes exception to any material requirement of the solicitation may be rejected.

### **3.5 Subcontracts**

Offeror shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities in the Offer.

### **3.6 Cost of Offer Preparation**

The State will not reimburse any Offeror the cost of responding to a Solicitation.

### **3.7 Solicitation Amendments**

Each Solicitation Amendment shall be signed with an original signature by the person signing the Offer, and shall be submitted no later than the Offer due date and time. Failure to return a signed (or acknowledgment for electronic submission, when authorized) copy of a Solicitation Amendment may result in rejection of the Offer.

### **3.8 Federal Excise Tax**

The State of Arizona is exempt from certain Federal Excise Tax on manufactured goods. Exemption Certificates will be provided by the State.

### **3.9 Provision of Tax Identification Numbers**

Offerors are required to provide their Arizona Transaction Privilege Tax Number and/or Federal Tax Identification number in the space provided on the Offer and Acceptance Form.

### **3.10 Employee Identification**

Offeror agrees to provide an employee identification number or social security number to the State for the purposes of reporting to appropriate taxing authorities, monies paid by the State under this contract. If the federal identifier of the offeror is



a social security number, this number is being requested solely for tax reporting purposes and will be shared only with appropriate state and federal officials. This submission is mandatory under 26 U.S.C. § 6041A.

**3.11 Identification of Taxes in Offer**

The State of Arizona is subject to all applicable state and local transaction privilege taxes. All applicable taxes shall be identified as a separate item offered in the solicitation when applicable, the tax rate and amount shall be identified on the price sheet. At all times, payment of taxes and the determination of applicable taxes are the sole responsibility of the contractor.

**3.12 Disclosure**

If the firm, business or person submitting this Offer has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity, including being disapproved as a subcontractor with any Federal, state or local government, or if any such preclusion from participation from any public procurement activity is currently pending, the Offeror shall fully explain the circumstances relating to the preclusion or proposed preclusion in the Offer. The Offeror shall include a letter with its Offer setting forth the name and address of the governmental unit, the effective date of this suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating to the suspension or debarment. If suspension or debarment is currently pending, a detailed description of all relevant circumstances including the details enumerated above shall be provided.

**3.13 Solicitation Order of Precedence**

In the event of a conflict in the provisions of this Solicitation, the following shall prevail in the order set forth below:

3.13.1 Special Terms and Conditions;

3.13.2 Uniform Terms and Conditions;

3.13.3 Statement or Scope of Work;

3.13.4 Specifications;

3.13.5 Attachments;

3.13.6 Exhibits;

3.13.7 Special Instructions to Offerors;

3.13.8 Uniform Instructions to Offerors. 3.13.9 Other documents referenced or included in the Solicitation.

**3.14 Delivery**

Unless stated otherwise in the Solicitation, all prices shall be F.O.B. Destination and shall include all freight, delivery and unloading at the destination(s).

**4 Submission of Offer**

Submission of Offer

**4.1 Sealed Envelope or Package**

Except for electronic submissions, when authorized, each Offer shall be submitted to the submittal location identified in this Solicitation. Offers should be submitted in a sealed envelope or container. The envelope or container should be clearly identified with name of the Offeror and Solicitation number. The State may open envelopes or containers to identify contents if the envelope or container is not clearly identified.

**4.2 Offer Amendment or Withdrawal**

An Offer may not be amended or withdrawn after the Offer due date and time except as otherwise provided under applicable law.

**4.3 Public Record**

All Offers submitted and opened are public records and must be retained by the State. Offers shall be open to public inspection after Contract award, except for such Offers deemed to be confidential by the State. If an Offeror believes that information in its Offer should remain confidential, it shall indicate as confidential the specific information and submit a statement with its Offer detailing the reasons that the information should not be disclosed. Such reasons shall include the specific harm or prejudice which may arise. The State shall determine whether the identified information is confidential pursuant to the Arizona Procurement Code.

**4.4 Non-collusion, Employment, and Services**

By signing the Offer and Acceptance Form or other official contract form, the Offeror certifies that:

4.4.1 i. The Offeror did not engage in collusion or other anti-competitive practices in connection with the preparation or submission of its Offer; and

4.4.2 ii. The Offeror does not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, or disability, and that it complies with all applicable Federal, state and local laws and executive orders regarding employment.

**5 Evaluation**

Evaluation

**5.1 Unit Price Prevails**

In the case of discrepancy between the unit price or rate and the extension of that unit price or rate, the unit price or rate shall govern.

**5.2 Taxes**

Arizona transaction privilege and use taxes shall not be considered for evaluation.

**5.3 Late Offers**

An Offer submitted after the exact Offer due date and time shall be rejected.

**5.4 Disqualification**

An Offeror (including any of its principals) who is currently debarred, suspended or otherwise lawfully prohibited from any public procurement activity shall have its offer rejected.

**5.5 Offer Acceptance Period**

An Offeror submitting an Offer under this Solicitation shall hold its Offer open for the number of days from the Offer due date that is stated in the Solicitation. If the Solicitation does not specifically state a number of days for Offer acceptance, the number of days shall be one hundred–twenty (120). If a Best and Final Offer is requested pursuant to a Request for Proposals, an Offeror shall hold its Offer open for one hundred–twenty (120) days from the Best and Final Offer due date.

**5.6 Waiver and Rejection Rights**

Notwithstanding any other provision of the Solicitation, the State reserves the right to:

5.6.1 Waive any minor informality;

5.6.2 Reject any and all Offers or portions thereof; or

5.6.3 Cancel the Solicitation.

**6 Award**

Award

**6.1 Number or Types of Awards**

The State reserves the right to make multiple awards or to award a Contract by individual line items or alternatives, by group of line items or alternatives, or to make an aggregate award, or regional awards, whichever is most advantageous to the State. If the Procurement Officer determines that an aggregate award to one Offeror is not in the State's best interest, 'all or none' Offers shall be rejected.

**6.2 Contract Inception**

An Offer does not constitute a Contract nor does it confer any rights on the Offeror to the award of a Contract. A Contract is not created until the Offer is accepted in writing by the Procurement Officer's signature on the Offer and Acceptance Form. A notice of award or of the intent to award shall not constitute acceptance of the Offer.

**6.3 Effective Date**

The effective date of this Contract shall be the date that the Procurement Officer signs the Offer and Acceptance form or other official contract form, unless another date is specifically stated in the Contract.

**7 Protests**

A protest shall comply with and be resolved according to Arizona Revised Statutes Title 41, Chapter 23, Article 9 and rules adopted thereunder. Protests shall be in writing and be filed with both the Procurement Officer of the purchasing agency and with the State Procurement Administrator. A protest of a Solicitation shall be received by the Procurement Officer before the Offer due date. A protest of a proposed award or of an award shall be filed within ten (10) days after the protester knows or should have known the basis of the protest. A protest shall include:

7.1 The name, address and telephone number of the protester;

7.2 The signature of the protester or its representative;

7.3 Identification of the purchasing agency and the Solicitation or Contract number;

7.4 A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and

7.5 The form of relief requested.

**8 Comments Welcome**

The State Procurement Office periodically reviews the Uniform Instructions to Offerors and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15th Avenue, Suite 104, Phoenix, Arizona, 85007.

# Tree Cutting/Thinning

Solicitation # SCC050002-A6

## Uniform Terms and Conditions

### 1 Definition of Terms

As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:

#### 1.1 Attachment

any item the Solicitation requires the Offeror to submit as part of the Offer.

#### 1.2 Contract

the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.

#### 1.3 Contract Amendment

a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.

#### 1.4 Contractor

any person who has a Contract with the State.

#### 1.5 Days

calendar days unless otherwise specified

#### 1.6 Exhibit

any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.

#### 1.7 Gratuity

a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

#### 1.8 Materials

all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.

#### 1.9 Procurement Officer

the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.

#### 1.10 Services

the furnishing of labor, time or effort by a contractor or subcontractor which does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements.

#### 1.11 Subcontract

any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.

#### 1.12 State

the State of Arizona and Department or Agency of the State that executes the Contract.

#### 1.13 State Fiscal Year

the period beginning with July 1 and ending June 30,

### 2 Contract Interpretation

Contract Interpretation

#### 2.1 Arizona Law

The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.

#### 2.2 Implied Contract Terms

Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.

#### 2.3 Contract Order of Precedence

In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:

2.3.1 Special Terms and Conditions;

2.3.2 Uniform Terms and Conditions;

2.3.3 Statement or Scope of Work;

2.3.4 Specifications;

2.3.5 Attachments;

2.3.6 Exhibits;

2.3.7 Documents referenced or included in the Solicitation.

## **2.4 Relationship of Parties**

The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

## **2.5 Severability**

The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.

## **2.6 No Parole Evidence**

This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

## **2.7 No Waiver**

Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

## **3 Contract Administration and Operation**

Contract Administration and Operation.

### **3.1 Records**

Under A.R.S. § 35–214 and § 35–215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other 'records' relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.

### **3.2 Non-Discrimination**

The Contractor shall comply with State Executive Order No. 99–4 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

### **3.3 Audit**

Pursuant to ARS § 35–214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.

### **3.4 Facilities Inspection and Materials Testing**

The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract. The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the State determines non-compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.

### **3.5 Notices**

Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.

### **3.6 Advertising, Publishing and Promotion of Contract**

The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.

### **3.7 Property of the State**

Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.

### **3.8 Ownership of Intellectual Property**

Any and all intellectual property, including but not limited to copyright, invention, trademark, tradename, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ('Intellectual Property'), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor (s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.

## **4 Costs and Payments**

Costs and Payments

#### **4.1 Payments**

Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days.

#### **4.2 Delivery**

Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.

#### **4.3 Applicable Taxes**

4.3.1 Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.

4.3.2 State and Local Transaction Privilege Taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.

4.3.3 Tax Indemnification. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

4.3.4 IRS W9 Form. In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona, unless not required by law.

#### **4.4 Availability of Funds for the Next State Fiscal Year**

Funds may not presently be available for performance under this Contract beyond the current state fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current state fiscal year until funds are made available for performance of this Contract.

#### **4.5 Availability of Funds for the Current State Fiscal Year**

Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the State may take any of the following actions:

4.5.1 Accept a decrease in price offered by the contractor;

4.5.2 Cancel the Contract

4.5.3 Cancel the contract and re-solicit the requirements.

### **5 Contract Changes**

Contract Changes

#### **5.1 Amendments**

This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procurement officer in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

#### **5.2 Subcontracts**

The Contractor shall not enter into any Subcontract under this Contract for the performance of this contract without the advance written approval of the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.

#### **5.3 Assignment and Delegation**

The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

### **6 Risk and Liability**

Risk and Liability

#### **6.1 Risk of Loss**

The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

#### **6.2 Indemnification**

6.2.1 Contractor/Vendor Indemnification (Not Public Agency) The parties to this contract agree that the State of Arizona, its' departments, agencies, boards and commissions shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its' departments, agencies, boards and commissions shall be responsible for its' own negligence. Each party to this contract is responsible for its' own negligence.

6.2.2 Public Agency Language Only Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable

attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its' officers, officials, agents, employees, or volunteers.'

### **6.3 Indemnification – Patent and Copyright**

The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the contractor is insured pursuant to A.R.S. § 41–621 and § 35–154, this section shall not apply.

### **6.4 Force Majeure**

6.4.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term 'force majeure' means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions–intervention–acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

6.4.2 Force Majeure shall not include the following occurrences:

6.4.2.1 Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;

6.4.2.2 Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or

6.4.2.3 Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

6.4.3 If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified–return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

6.4.4 Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.

### **6.5 Third Party Antitrust Violations**

The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.

## **7 Warranties**

Warranties

### **7.1 Liens**

The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.

### **7.2 Quality**

Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the State of the materials, they shall be:

7.2.1 Of a quality to pass without objection in the trade under the Contract description;

7.2.2 Fit for the intended purposes for which the materials are used;

7.2.3 Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;

7.2.4 Adequately contained, packaged and marked as the Contract may require; and

7.2.5 Conform to the written promises or affirmations of fact made by the Contractor.

### **7.3 Fitness**

The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.

### **7.4 Inspection/Testing**

The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by inspection or testing of or payment for the materials by the State.

### **7.5 Year 2000**

7.5.1 Notwithstanding any other warranty or disclaimer of warranty in this Contract, the Contractor warrants that all products delivered and all services rendered under this Contract shall comply in all respects to performance and delivery requirements of the specifications and shall not be adversely affected by any date-related data Year 2000 issues. This warranty shall survive the expiration or termination of this Contract. In addition, the defense of force majeure shall not apply to the Contractor's failure to perform specification requirements as a result of any date-related data Year 2000 issues.

7.5.2 Additionally, notwithstanding any other warranty or disclaimer of warranty in this Contract, the Contractor warrants that each hardware, software, and firmware product delivered under this Contract shall be able to accurately process date/time data (including but not limited to calculation, comparing, and sequencing) from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations, to the extent that other information technology utilized by the State in combination with the information technology being acquired under this Contract properly exchanges date-time data with it. If this Contract requires that the information technology products being acquired perform as a system, or that the information technology products being acquired perform as a system in combination with other State information technology, then this warranty shall apply to the acquired products as a system. The remedies available to the State for breach of this warranty shall include, but shall not be limited to, repair and replacement of the information technology products delivered under this Contract. In addition, the defense of force majeure shall not apply to the failure of the Contractor to perform any specification requirements as a result of any date-related data Year 2000 issues.

### **7.6 Compliance With Applicable Laws**

The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.

### **7.7 Survival of Rights and Obligations after Contract Expiration or Termination**

7.7.1 Contractor's Representations and Warranties. All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12-510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.

7.7.2 Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

## **8 State's Contractual Remedies**

State's Contractual Remedies

### **8.1 Right to Assurance**

If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.

### **8.2 Stop Work Order**

8.2.1 The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

8.2.2 If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

### **8.3 Non-exclusive Remedies**

The rights and the remedies of the State under this Contract are not exclusive.

### **8.4 Nonconforming Tender**

Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or

remedy available to it.

#### **8.5 Right of Offset**

The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

#### **9 Contract Termination**

Contract Termination

##### **9.1 Cancellation for Conflict of Interest**

Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.

##### **9.2 Gratuities**

The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.

##### **9.3 Suspension or Debarment**

The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the contractor is not currently suspended or debarred. If the contractor becomes suspended or debarred, the contractor shall immediately notify the State.

##### **9.4 Termination for Convenience**

The State reserves the right to terminate the Contract, in whole or in part at any time, when in the best interests of the State without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.

##### **9.5 Termination for Default**

9.5.1 In addition to the rights reserved in the contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.

9.5.2 Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State on demand.

9.5.3 The State may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the State for any excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor.

##### **9.6 Continuation of Performance Through Termination**

The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

#### **10 Contract Claims**

All contract claims or controversies under this Contract shall be resolved according to A.R.S. Title 41, Chapter 23, Article 9, and rules adopted thereunder.

#### **11 Arbitration**

The parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518, except as may be required by other applicable statutes (Title 41).



## Tree Cutting/Thinning

Solicitation # SCC050002-A6

### Price Sheet

#### Instructions

A stand exam will be completed by the Contractor prior to the pre-commencement meeting. All services requested/required in a Work Order and not covered specifically in this Price Sheet will be negotiated between Contractor and the State at the mandatory pre-commencement meeting.

Bidder is hereby notified that bids on every item listed are not required for consideration for award. Bidder is admonished to bid only on those counties and methods desired. Due to the impossibility of minimizing any further in this document the ambiguous nature of pricing complexity for this industry, a negotiable arena of + or - 10% bid price will be available for consideration to the Project Manager at time of Work Order issuance for tree cutting/thinning projects only, according to the individual project requirements and the Tier assignment on the Work Order.

Bidder is requested to enter a \$1 bid for those line items they plan to complete the attached price sheet for and enter a \$0 value for those line items they will not be completing an attached price sheet for. Bidder is then requested to proceed to the appropriate attached price sheet(s), open and save the chosen price sheet(s), fill in appropriate bids, save the completed price sheet(s) and submit the file with their Offer. Additional instruction may be obtained at 602-789-3457.

LI #	CM Code # CM Code Item #	Commodity Code Description Commodity Code Item Description	Pricing	Qty	UOM
1	0988-0088 0988-0088-0001	Tree Trimming and Pruning Services Tree Cutting and Thinning	FP	1200	Acre
2	0988-0088 0988-0088-0002	Tree Trimming and Pruning Services Right of Way	FP	800	Acre
3	0988-0088 0988-0088-0003	Tree Trimming and Pruning Services Emergency and/or Focused Clean-up	FP	20	Each

## Tree Cutting/Thinning

Solicitation # SCC050002-A6

### Offer

TO THE STATE OF ARIZONA

The Undersigned hereby offers and agrees to furnish the material, service or construction in compliance with all terms, conditions, specifications and amendments in the Solicitation and any written exceptions in the offer. Signature also certifies Small Business status.

#### Tax Information

Arizona Transaction (Sales) Privilege Tax License No. \_\_\_\_\_

Federal Employer Identification No. \_\_\_\_\_

#### Location Information

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### Clarification Information

Name: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

#### Signature

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

#### Certification

By Accepting below, the bidder certifies:

1. The submission of the offer did not involve collusion or other anti-competitive practices.
2. The bidder shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, State Executive Order 75.5 or A.R.S. §§ 41-1461 through 1465
3. The bidder has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause shall result in rejection of the offer. Signing the offer with a false statement shall void the offer, any resulting contract and may be subject to legal remedies provided by law.
4. The bidder certifies that the above referenced organization \_\_\_ is \_\_\_ is not a small business with less than 100 employees or has gross revenues of \$4 million or less.

### Acceptance

The Offer is hereby accepted.

The Contractor is now bound to sell the materials or services listed by the attached contract and based upon the solicitation, including all terms, conditions, specifications, amendments, etc., and the Contractor's Offer as accepted by the State.

This contract shall henceforth be referred to as Contract No. \_\_\_\_\_. The Contractor has been cautioned not to commence any billable work or to provide any material or service under this contract until Contractor receives purchase order, contract release document or written notice to proceed.

State of Arizona Awarded This \_\_\_\_\_ day of \_\_\_\_\_  
Procurement Officer: \_\_\_\_\_

# Tree Cutting/Thinning

Solicitation # SCC050002-A6

## Certificate of Insurance

Supplier Name: \_\_\_\_\_

Prior to commencing services under this contract, the contractor must furnish the state certification from insurer(s) for coverages in the minimum amounts as stated below. The coverages shall be maintained in full force and effect during the term of this contract and shall not serve to limit any liabilities or any other contractor obligations.

Name and Address of Insurance Agency	Company Letter	Companies Affording Coverage
	A	
	B	
Name and Address of Insured	C	
	D	

LIMITS OF LIABILITY MINIMUM – EACH OCCURANCE		COMPANY LETTER	TYPE OF INSURANCE	POLICY NUMBER	DATE POLICY EXPIRES
Bodily Injury			Comprehensive General Liability Form		
---Per Person			Premises Operation		
Each Occurance			Contractual		
Property Damage			Independant Contractors		
---OR---	-----	-----	Products /Completed Operations Hazard		
Bodily Injury	\$1,000,000		Personal Injury		
---AND---			Broad Form Property Damage		
Property Damage	\$1,000,000		Explosion &Collapse (if applicable)		
Combined	\$2,000,000		Underground Hazard (if applicable)		
Same as Above			Comprehensive Auto Liability Including Non-Owner (if applicable)		
Necessary if underlying is not above minimum			Umbrella Liability		
Statutory Limits			Workmen's Compensation and Employer's Liability		
			Other		

State of Arizona and the Department named above are added as additional insureds as required by statute, contract, purchase order, or otherwise requested. It is agreed that any insurance available to the named insured shall be primary of other sources that may be available.

It is further agreed that no policy shall expire, be canceled or materially changed to affect the coverage available to the state without thirty (30) days written notice to the State. This Certificate is not valid unless countersigned by an authorized representative of the insurance company.

Name and Address of Certificate Holder

Date Issued: \_\_\_\_\_

Authorized Representative